

1 **Article 6.6 Modified Nonindustrial Timber Management Plan Administration**

2
3 **June 9, 2014**

4 **1090.30 Rule Application**

5 Where the abbreviation THP, the term Timber Harvesting Plan, or the word plan is used in Chapter 4,
6 Subchapters 1 through 6 and Chapter 4.5 it shall also mean Modified Nonindustrial Timber Management
7 Plan as specified in Article 7.5 of the PRC. In Subchapter 7 this equivalency will occur for all sections
8 except 1031 through 1042.

Comment [SLF 2nd1]: The MNTMP
applies to all subdistricts.

9 (a) On an individual contiguous ownership of no more than 320 acres of timberland or no more than
10 10% of a planning watershed, a Modified Non-industrial Timber Management Plan (MNTMP) may be
11 filed by a plan submitter. Individual landowners with non-contiguous ownership of no more than 320
12 acres of timberlands may file a MNTMP.

13 **1090.31 Timber Management Plan and Notice of Timber Operations Filing Locations**

14 The Modified Nonindustrial Timber Management Plan (MNTMP) or Notice of Timber Operations
15 (Notice) for proposed timber operations provided for by Article 7.5, Chapter 8, Part 2, Division 4 of the
16 PRC (commencing with Sec. 4593) shall be submitted in writing to the Director at the appropriate CAL
17 FIRE Review Team Office having jurisdiction for the timber operations, and shall contain the information
18 specified in 14 CCR § 1090.5. [NOTE: For CAL FIRE Review Team Office addresses, see 14 CCR § 1032.]

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20 **1090.32 MNTMP Submittal and Notice of Preparation**

21 (a) The processes and procedures for MNTMP Submittals and Notices of Preparation shall be
22 conducted pursuant to 14 CCR § 1090.3.

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24 **1090.33 Notice of Preparation-Distribution by Director**

25 The Director shall distribute copies of each Notice of Preparation associated with an MNTMP pursuant

1 to 14 CCR § 1090.4

2
3 **1090.34 Request for Notification of MNTMP or Notice of Timber Operations Submission**

4 (a) Procedures for handling requests for Notifications of MNTMPs or Notices of Timber Operations
5 shall be conducted pursuant to 14 CCR 1090.4.

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7 **1090.35 Contents of MNTMP**

8 The plan shall serve three functions: 1) to provide information the Director needs to determine
9 whether the proposed MNTMP conforms to the rules of the Board; 2) to provide information and
10 direction for timber management so it complies with the rules of the Board and the management
11 objectives of the landowner; and 3) to disclose the potential effects of timber management to the
12 public. For the plan to serve these functions, it shall, as a minimum, contain the following information:

13 (a) Name, address, and telephone number of the timberland owner(s) or designated agent.

14 (b) Name, address, and telephone number of the timber owner(s) (if different).

15 (c) Name, address, telephone number, and registration number of RPF who prepared the plan.

16 (d) A description of the plan area within which timber operations are to be conducted. The
17 description shall include the following:

18 (1) U.S. Geological Survey (USGS) Quadrangle name(s) and date(s).

19 (2) township, range, and section number(s).

20 (3) county name(s).

21 (4) CALWATER 2.2 planning watershed number(s), and

22 (5) approximate acreage.

23 (e) The forest district and subdistrict (if any) in which the MNTMP is located.

24 (f) A description of present and proposed plan area uses other than timber production.

25 (g) A description by management unit(s) of the timber stand characteristics including species
composition, age classes, stand management history, and potential pest or protection problems. The

description shall provide the basis for the information provided.

(h) A description by management unit(s) of the proposed management objectives, including a productivity standard discussion which demonstrates for each management unit(s) a period of time which growth will be balanced with harvest. This discussion shall include management unit characteristics described under 1090.34(g) and including post harvest species composition, age classes and basal area. All Intermediate treatments including transition, commercial thinning or sanitation-salvage silviculture stocking shall demonstrate MSP under Option C (14 CCR § 913.11, 933.11, 953.11(c)(3)). In addition, all special prescriptions shall be allowed, excluding 14 CCR § 913.4, 933.4, 953.4(d).

(1) Uneven-aged selection method shall demonstrate MSP under Option C (14 § CCR 913.11, 933.11, 953.11(c)(2)) and minimum post harvest stocking standards shall be limited to:

(A) On Site I and II lands at least [125 Coast] [100 Northern & Southern] square feet per acre of basal area shall be retained.

(B) On Site III lands at least [100 Coast] [75 Northern & Southern] square feet per acre of basal area shall be retained.

(C) On Site IV 75 square feet per acre of basal area shall be retained, unless the RPF can demonstrate that due to current existing stand conditions and tree species present cannot achieve the basal area requirements and —a balanced uneven-aged structure that shall be maintained over time.

(D) On Site V lands at least 50 square feet per acre of basal area shall be retained.

(E) Uneven-aged selection silviculture method shall only occur within each management unit once every ten years.

(2) Commercial thinning silviculture shall meet stocking standards pursuant to 14 CCR § 913.3, 933.3, 953.3(a).

(A) Intermediate treatments silviculture may occur as necessary and feasible to achieve stated MNTMP objectives and demonstrate how, over a period of time, the management unit(s) shall meet selection silviculture standards pursuant to 14 CCR § 1090.35(h)(1).

Comment [SLF 2nd2]: Ask for by stakeholders to reduce MMNTMP preparation.

Comment [SLF 2nd3]: Increased stocking from early AB904 drafts and Board priorities of "light touch" forestry.

Comment [SLF 2nd4]: Modified due to discussions in May Committee meeting.

Comment [SLF 2nd5]: From early AB904 draft language.

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2 (3) Sanitation-Salvage silviculture shall meet stocking standards pursuant to 14 CCR § 913.3(b). The
3 RPF must demonstrate in the MNTMP how, over a period of time, the management unit(s) shall meet
4 selection silviculture standards pursuant to 14 CCR § 1090.35(h)(1). Sanitation-Salvage silviculture shall
5 not be proposed for more than 20% of the MNTMP area in any one Notice of Operations, unless the
6 RPF can demonstrate that current treatment of existing episodic events like drought, disease or insect
7 damage are necessary to achieve a balanced uneven-aged structure that shall be maintained over
8 time.

Comment [SLF 2nd6]: Modified due to discussions in May Committee meeting.

9
10 (4) Rehabilitation silviculture shall not be proposed for more than 10% of the MNTMP area.

11 (5) The MNTMP shall have a description of existing late-successional forest stands, if any, and
12 measures to maintain or manage existing stands pursuant to 14 CCR § 919.16.

Comment [SLF 2nd7]: Item 5, 6, and 7 from early AB904 draft language and intent.

13 (6) The MNTMP shall have a description of retention measures for existing wildlife structures including
14 trees with cavities or basal hollows, and down logs, and address how those wildlife structures shall be
15 managed over time.

16 (7) The MNTMP shall have a description of existing hardwood tree species and how they will be
17 managed over time.

18 (8) Transition silviculture shall not be proposed for more than 20% of the MNTMP area in any one
19 Notice of Operations, unless the RPF can demonstrate how a balanced uneven-aged structure shall be
20 maintained over time.

Comment [SLF 2nd8]: Modified due to discussions in May Committee meeting.

21 (i) A description of proposed activities to achieve the management objectives. This must include: 1)
22 projected frequencies of harvest, 2) silvicultural prescriptions for harvesting, 3) type of yarding systems
23 to be used for each area; 4) anticipated interim management activities which may result in rule
24 compliance questions (i.e. erosion control maintenance).

25 (j) A description of any cultural or historical resources known to exist with a description of possible
impacts and protection methods to be used during timber operations.

1 (k) Whether a timberland conversion certificate is in effect, its date of expiration, and its identification
2 number.

3 (l) Whether a timber harvesting plan is on file with the Department for any part of the plan area and if
4 a Report of Satisfactory Stocking has been issued by the Department (show plan number).

5
6 (m) Information on the presence and protection of any known key habitat or individuals of any federal
7 or state threatened or endangered plant or animal species or any species that are listed in DFW
8 inventories prepared pursuant to the F&GC or any species of special concern or species as designated by
9 the Board. in these rules. If the plan is located within the Northern Spotted Owl Evaluation Area or
10 within 1.3 miles of a known northern spotted owl activity center, outside of the Northern Spotted Owl
11 Evaluation Area, the Director shall evaluate whether or not the proposed activity would result in the
12 "take" of an individual northern spotted owl. 919.10(939.10). Where surveys are required under
13 919.9(939.9) for an MNTMP the following northern spotted owl take avoidance shall be followed:

14 (1) The RPF shall include in the plan the following information:

15 (A) On a planimetric or topographic map of a minimum scale of 1:24,000, provide the following:

16 (i) Identify any suitable owl habitat by type within 0.7 miles of the plan boundary (Coast) and
17 1.3 miles of the plan boundary (Northern).

18 (ii) When mapping suitable owl habitat also include additional information which helps define
19 those areas such as: location of topography features, riparian vegetation, hardwood component,
20 hydrologic features, water, potential nest and roost sites, and potential suitable forage areas. Describe
21 method used to map suitable owl habitat including stand descriptions which may mean tree size, density
22 and species.

23 (iii) All known owl observations, identified by location and visual or nonvisual confirmation
24 within 0.7 mile of the plan boundary (Coast) and 1.3 miles of the plan boundary (Northern). This
25 information shall be derived from the landowners, RPF's personal knowledge, information from
adjacent landowners if available and from the Department of Fish and Wildlife spotted owl database.

Comment [SLF 2nd9]: Asked for by stakeholders for 1-year spotted owl survey.

1 (B) Describe any proposals for monitoring owls or suitable owl habitat.

2 (C) Discussion of any known owl surveys that have been conducted within the plan and 0.7
3 miles of the plan boundary (Coast) and 1.3 miles of the plan boundary (Northern). Include the dates,
4 results and methodologies used if known.

5 (2) Surveys shall be conducted throughout the area within 0.7 miles of the plan boundary (Coast)
6 and 1.3 miles of the plan boundary (Northern), and following measures:

7 (A)Where a barred owl has been previously detected more than once, in the same survey year
8 or consecutive survey years, within 0.5 mile of a known occupied northern spotted owl activity center
9 within 0.7 miles of plan boundary (Coast) and 1.3 miles of the plan boundary (Northern) or within 0.5
10 miles of the plan boundary, surveys shall be conducted in accordance with the current USFWS approved
11 protocol.

12 (B)Where a barred owl has not been previously detected more than once, in the same survey
13 year or consecutive survey years, within 0.5 mile of a known occupied northern spotted owl activity
14 center within 0.7 miles of plan boundary (Coast) 1.3 miles of the plan boundary (Northern) or within 0.5
15 miles of the plan boundary, and a minimum of 2 survey years out of the previous 5 years previous
16 detection information documented by the RPF pursuant to 1094.35(m)(1)(A)(3) demonstrates that
17 indicates local northern spotted owl locations and detections, if any, are well understood, the RPF may
18 propose a one-year survey that includes:

19 (i) One informed daytime stand-based search of the best suitable habitat within 0.5 miles of a
20 known occupied activity center found within 0.7 miles of the plan boundary (Coast) and 1.3 miles of the
21 plan boundary (Northern), if access is granted. If access to conduct a stand search is not granted, than
22 one informed daytime stand-based search shall be conducted of the best suitable habitat in the plan
23 area. The stand-based search shall be conducted as early in the nesting season, as feasible. If access is
24 not granted to conduct a stand search of a known occupied activity center within 0.7 miles of the plan
25 boundary (Coast) and 1.3 miles of the plan boundary, then seasonal nesting disturbance measures
described in the USFWS approved protocol shall be incorporated into the plan.

1 (ii) Six nighttime station-based surveys shall be conducted within 0.7 miles of the plan boundary
2 (Coast) and 1.3 miles of the plan boundary (Northern).

3 (C) Survey results of a one-year survey are valid until the beginning of the following breeding
4 season February 1st.

5 (3) Where certification is made by the RPF and adequate records are kept showing that:

6 (A) Where no suitable habitat exists within either the MNTMP area, and no suitable habitat
7 exists within 0.25 mile of operations including harvesting units, appurtenant roads and landings, then
8 surveys are not required for take avoidance under 14 CCR § 1090.35(m).

9 (B) Where no suitable habitat exists within the MNTMP area and suitable habitat exists within
10 0.25 mile of operations including harvesting units, appurtenant roads and landings, then:

11 (i) Operations may occur outside of February 1st to July 9th or,

12 (ii) Operations may occur following completion of surveys if no new northern spotted owl
13 activity centers are established. If a new activity center is established then the MNTMP shall conduct an
14 evaluation pursuant to 919.9(939.9).

15 (C) Where only suitable foraging habitat exists and no nesting and roosting habitat exists,
16 within the MNTMP area and only suitable foraging habitat exists and no nesting and roosting habitat
17 exists within 0.25 mile of operations including harvesting units, appurtenant roads and landings, and
18 proposed silviculture and operations will not change the suitable habitat type then:

19 (i) Operations may occur following completion of surveys throughout the plan area and the area
20 within 0.5 miles of the plan boundary if no new northern spotted owl activity centers are established. If
21 a new activity center is established then the MNTMP shall conduct an evaluation pursuant to
22 919.9(939.9).

23 (4) Any measures described in 14 CCR § 1090.35(m) does not preclude any landowner from proposing
24 northern spotted owl take avoidance measures pursuant to the outcome of a discussion with a listing
25 Agency(s)(14 CCR 919.9, 939.9(e)).

(n) A description of potential impacts and protections for the quality and beneficial uses of waters

1 within watercourses, lakes, and wet areas.

2 (o) A description of soils, surface erosion hazard, mass wasting erosion hazard, and erosion control
3 measures.

4 (p) A description of the existing and proposed road system to be used in implementation of the
5 management plan.

6 (q) A description of how the site preparation standards and stocking standards will be met.

7 (r) A description of the proposed yarding methods including protection of residual trees, watercourse
8 crossings, operation on unstable areas.

9 (s) A description of slash treatment for site preparation, fire protection and pest protection
10 consideration.

11 (t) The RPF shall certify that a meeting will be held at the MNTMP site before timber operations
12 commence with the RPF responsible for the plan or supervised designee and the licensed timber
13 operator who will be operating on the THP where the contents and implementation of the plan have
14 been reviewed and discussed. Operations pursuant to this section shall use an alternative to the
15 cumulative impacts assessment specified in 14 CCR 898, 912.9 [932.9, 952.9], and Technical Rule
16 Addendum No.2. Operations conducted according to this section are presumed to be unlikely to cause a
17 significant adverse impact to the environment due to the specific restrictive mitigations required in (1)-
18 (14) above.

19 This presumption of unlikely impacts shall not apply to MNTMPs for which: 1) the Director determines
20 it does not meet the criteria of subsection (a), or 2) the Director determines in consultation with trustee
21 or responsible agencies, or upon review of public comments that a fair argument exists that significant
22 individual or cumulative impacts will result from timber operations. Where issues (a fair argument) are
23 raised the RPF shall complete the appropriate portion of Technical Rule Addendum No. 2 and submit
24 that information for the Director's review.

25 (u) A copy of the forest practice regulations in effect at the time of submission.

(v) On a USGS quadrangle or equivalent topographical map of a scale not less than 2" to the mile, the

Comment [SLF 2nd10]: Asked for by stakeholders to reduce document preparation.

Comment [WU11]: Language from Modified THP 1051.1

Comment [MRD112]: REVIEW FOR CONSISTENCY. SUBSECTION A IN 1051.1 IS REFERENCED BUT SHOULD NOT BE REFERENCED IN MNTMP. LARRY CAMP ORAL COMMENT.

1 following information shall be clearly provided. Additional maps may be required to show specific
2 details, and may be planimetric. Color coding shall not be used. A legend shall be included indicating
3 the meaning of the symbols used. See the district rules for the appropriate minimum mapping acreages.

4 (1) Boundaries of management plan(s).

5 (2) Boundaries of regeneration methods, intermediate treatments, special harvesting methods,
6 and alternative prescriptions that are to be applied.

7 (3) Boundaries of yarding (logging) systems, if more than one system is to be used.

8 (4) Location of public roads within the plan area, and private roads appurtenant to the timber
9 operations where such roads are under the ownership or control of the timberland owner and are
10 contiguous with the plan area, and classification of all proposed and existing logging roads as
11 permanent, seasonal, or temporary roads.

12 (5) Probable location of proposed and existing landings in the watercourse and lake protection
13 zone, and landings outside the zone that are greater than 1/4 acre in size or whose construction involves
14 substantial excavation.

15 (6) Road failures on existing roads to be reconstructed.

16 (7) Location of all existing and proposed permanent watercourse crossing drainage structures
17 and temporary crossings on Class I and II watercourses on roads; if a permanent culvert is involved, its
18 minimum diameter shall be provided.

19 (8) Location of area(s) of high or extreme erosion hazard rating.

20 (9) Location of all watercourses with Class I, II, III, or IV waters.

21 (10) Location of known unstable areas or slides.

22 (11) Location of understocked areas and other areas not normally bearing timber to at least a
23 20-acre minimum, or as specified in the district rules.

24 (12) Location of boundaries of timber-site classes needed for determination of stocking
25 standards to be applied, down to at least a 10-acre minimum or as specified in the district rules.

(13) Location of unique areas including, Coastal Commission Special Treatment Areas or any

special treatment area.

(14) A soils map where available.

(w) Any additional information that is submitted on separate pages shall be clearly marked "plan addendum" and shall bear the date on which it was prepared.

(x) Explanation and justification for, and specific measures to be used for, tractor operations on unstable areas, on slopes over 65%, and on areas where slopes average over 50% and the EHR is high or extreme.

(y) Explanation and justification for tractor operations in areas designated for cable yarding.

(z) Winter period operating plan where appropriate.

(aa) Explanation and justification for use of watercourse, marshes, wet meadows, and other wet areas as landings, roads, or skid trails.

(bb) Explanation and justification of any in-lieu or alternative practices for watercourse and lake protection.

(cc) Explanation of alternatives to standard rules for harvesting and erosion control.

(dd) Explanation and justification for landings that exceed the maximum size specified in the rules.

(ee) Any other information required by the rules or the Act to be included in the plan. The district rules provide for exceptions and alternatives to standard requirements that require inclusion of information in the MNTMP.

(ff) Where roads, watercourse crossings, and associated landings in the logging area will be abandoned, the methods for abandonment shall be described.

(gg) On a map complying with subsection 1090.35(t), the locations and classifications of roads, watercourse crossings, and landings to be abandoned shall be shown.

(hh) A certification by the RPF preparing the plan that he, she, or a designee personally inspected the area.

1090.36 MNTMP Process, Procedure and Responsibilities

(a) All processes, procedures and responsibilities pursuant to 14 CCR § 1090.6 – 1090.27 shall

Comment [WU13]: This will have to be modified if provisions below, or portions thereof, are accepted.

1 apply to MNTMPs.

2 (b) For an MNTMP where northern spotted owl surveys are required under 919.9(939.9), the
3 Notice of Timber Operations Content shall also include all information and measures described in
4 1090.35(m) and necessary for northern spotted owl take avoidance 919.10(939.10).

5
6
7 **1090.37 Notice of Timber Operations**

8 Following confirmation by the nonindustrial tree farmer that all necessary field work is functional and
9 useable (including flagging or marking), the nonindustrial tree farmer who owns, leases, or otherwise
10 controls or operates on all or any portion of any timberland within the boundaries of an approved
11 MNTMP shall submit a Notice of Timber Operations including the certification required by PRC § 4594.6
12 to the appropriate CAL FIRE Review Team Office. Timber operations may commence immediately unless
13 the notice has been filed by mailing, in which case operations may commence three days after the
14 notice has been mailed.

15 **1090.38 Amendment**

16 Amendments proposing Amendments proposing substantial deviation from an original plan shall be
17 submitted to the Director in writing by the person who submitted the original plan, or the successor in
18 interest. Substantial deviations shall not be under taken until such amendment has been filed and acted
19 upon by the Director in the manner as required in PRC 4582.

Comment [SLF 2nd14]: This is intended to shorten amendment review timelines, if appropriate, from discussions with CAL FIRE/

20
21 **1090.39 Review Teams to be Established to Review Timber Management Plan**

22 Interdisciplinary review teams shall be established by the Director to review plans and assist the Director
23 in the evaluation of proposed timber management plan(s) and its impacts on the environment. The
24 Review Team composition, function, tasks and procedures shall be the same as those described in 14
25 CCR 1037.5

1090.40 Field Review of MNTMP

(a) The Director shall require a preharvest inspection of a MNTMP plans when:

(1) Heavy equipment operations are proposed on slopes greater than 50%, or in areas with high or extreme erosion hazard rating.

(2) Construction or use of existing skid trails on slopes over 40% is proposed.

(3) Timber operations, with the exception of hauling on existing roads not requiring reconstruction is proposed in Special Treatment Areas.

(4) Timber operations are proposed on slides or unstable areas.

(5) Timber operations are proposed within a watercourse or lake protection zone, meadows, or wet areas with the exception of the use and maintenance of existing roads and associated drainage facilities and structures.

(6) The plan proposes the use of Transition or Rehabilitation methods.

(7) Timber operations are proposed within boundaries of significant archaeological sites.

(8) The plan proposes alternatives, exceptions, or-lieu are proposed.

(9) The plan proposes timber operations during the winter period.

(10) Listed species have been identified as potentially being directly or indirectly impacted by proposed timber operations.

(b) The Director may also require a pre-harvest inspection where the Director, a Review Team Agency, or the public raises a fair argument during the course of the initial review of the MNTMP a significant individual or cumulative impacts will result from timber operations.

1090.41 Transition from NTMP to MNTMP

If a landowner with a NTMP with less than 320 contiguous acres or timberland or 10%of the planning watershed, the landowner may transition into a MNTMP. A landowner with a NTMP with less than 320

Comment [SLF 2nd15]: This is intended to shorten review, if appropriate, from discussions with CAL FIRE.

1 non-contiguous acres may also transition into a MNTMP. The board shall adopt measures required for
2 transition into an MNTMP.

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4 **1090.42 Safe Harbor agreement**

5 A participating landowner, in conjunction with the preparation of an application for a MNTMP filed with
6 the Department, or with an approved MNTMP may also seek approval of a Safe Harbor Agreement from
7 the Department of Fish and Wildlife and/or U.S. Fish and Wildlife Service.

8
9 **1090.43 State Restoration Projects**

10 Notwithstanding any other law, if a person with a MNTMP that applies for state restoration grant
11 funding for a restoration project that has a significant public benefit, the application shall not be
12 summarily denied on the basis that the project is a required condition of the harvesting plan.

Comment [WU16]: Struck code language because it does not seem necessary. If found necessary, also include 64 FR 32706 under Section 10(a)(1)(a) of Federal Endangered Species Act. Also considered including Natural Community Conservation Plan (NCCP) F&GC 2800.